

# Development of a Utilization Review Casebook

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**U**NDER contract with the Public Health Service, the Hospital Utilization Project of Western Pennsylvania activated the Utilization Review Training Institute (URTI) on July 1, 1970. The objective was to conduct an ongoing series of short-term utilization review training programs during the subsequent 19 months.

In developing the curriculum for this institute,

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the URTI staff assembled resource material dealing with utilization review activities in the field and some of the situations with which field staff must contend.

## Method

We wrote to all State agencies and regional offices and requested providers, third-party payers, and others to provide specific examples of problems encountered and details on how they were handled.

More than 40 States responded to this inquiry and hundreds of problems were received. In addition, the Public Health Service's National Institute of Mental Health and the Social and Rehabilitation Service's Medical Services Administration provided material relevant to their particular interests.

The problems reviewed fell into 12 categories and, out of the total number received, selected cases were then chosen as representative of the problems encountered in the field. These cases were reviewed by a panel of experts representing the field staff.

The material in the casebook served as a basis for part of the curriculum of the Utilization Review Training Institute. Contributors to the development of the casebook hope that it will be used by field and administrative personnel as a reference or training guide.

This paper deals with a sampling of the kinds

of cases reviewed, the major categories into which they fell, and a few examples of the problem situations and suggested actions for resolving them.

### **Problem Categories**

Utilization review problems encompass 12 basic categories: (a) the utilization review plan, (b) utilization review committee functions, (c) documentation of the work of the utilization review committee, (d) extended duration review, (e) studies, (f) coordination of inhouse committees, (g) personnel attitudes, (h) small facilities, (i) patient transfer, (j) extended care facilities, (k) health data systems, and (l) relationships among the provider, State agency, intermediary, and carrier.

Basic problems pertaining to the utilization review plan are the development of an initial plan, a written plan that does not fit the operation of a facility, and unfamiliarity with the existing plan.

The second category, "utilization review committee functions," deals with lack of utilization review, ineffective utilization review, administrative responsibilities in utilization review, and committee membership. Other aspects of the committee's functions include development of a county medical society areawide utilization review committee and protesting when bypassed or overruled by the intermediary.

Documentation of the utilization review committee's work includes problems that deal with minutes, checklists, correspondence, patient identification, and recommendations. Requests of the intermediary for minutes of the utilization review committee's meetings can be precluded by reviewing utilization review records, including minutes, with providers.

Problems encompassed by extended duration review are: unrealistic extended duration periods; making timely reviews; extended duration being confused with recertification. Other situations in this category are denial of payments when review is not made within 7 days and nonphysician members performing reviews.

In the "Studies" category, the problems entail conducting meaningful medical care evaluation studies, followup action on committee findings, and confusion between sample cases and extended duration cases.

Coordination of inhouse committees is mandatory when utilization review is being performed

by other formal committees. Problems in establishing an initial mechanism for home health care utilization review may be dealt with at the meetings of home health care staff or the medical advisory committee. Resolution of such problems could also become a subcommittee function of the hospital utilization review committee.

Personnel attitudes are determined by medical staff involvement in utilization review, physician relationships, and legal liability. State agency personnel, the county medical society sponsored utilization review, and administrators also determine personnel attitudes.

Being concerned not only with large institutions, the casebook contains problems dealing with the particular situations related to small facilities. The problems include performing meaningful utilization review, establishing a joint utilization review committee, transporting medical records, expense of utilization review, and the optional method of utilization review.

The category dealing with patient transfer suggests methods for overcoming family resistance and the unavailability of other appropriate levels of care. Minimal medical information can be avoided by developing a standard form which is filled out at the proper time and completing the transfer form in compliance with the Social Security Amendment of 1965.

Some of the problems related to extended care facilities deal with levels of care and establishing a utilization review function in an extended care facility wing of a hospital.

Another category, "health data systems," deals with the situations where the facility fails to use the data and where membership in a data system substitutes for performance of utilization review. A rationale for participation in a data system and a procedure to follow when no automated health data system is available are delineated. A course of action is suggested for participants in a system that does not offer interpretive consultation.

Relationships among the provider, State agency, intermediary, and carrier encompass such problems as confusion about the roles of the State agency and intermediary, setting the number of days for extended duration review, refunds on noncovered cases, payment for retroactive denials, timing of notification of an adverse decision, and carrier utilization review and peer review.

Added to the previously mentioned 12 categories is material that deals with psychiatric utili-

zation review concerning medical care evaluation studies, extended duration review, and coordination of staff meetings.

## Casebook Examples

The format of the casebook is illustrated by the following detailed problems.

### Utilization Review Committee Functions

*Protest of bypassing and overruling by the intermediary.* The chairman of the utilization review committee of Cannon Hospital complained to the medical director of the intermediary that the hospital's utilization review committee's decisions on specific cases were being overruled and bypassed in the intermediary's claims adjudication process. Committee members were dismayed to find that despite the many hours of conscientious effort devoted to their activity, a case would be disallowed contrary to the utilization review committee approval of the stay. What action should be taken?

*Suggested action.* The American Medical Association states that the definition of claims review is "peer evaluation and adjudication of claims questions referred for peer review by any party with a valid interest in the case." The intermediary's medical director should arrange to meet at the earliest possible date with the utilization review committee, or preferably with the entire medical staff. During this meeting, the following points should be emphasized.

1. It is not a function of the utilization review committee to serve as a claims adjudication body. This is the responsibility of the intermediary.

2. It is possible for the utilization review committee to make a decision that further hospital stay is necessary and a concurrent decision that such further stay is not covered under the Medicare law. These decisions are not necessarily incompatible, since the utilization review committee may weigh nonmedical factors in determining the necessity of continued hospitalization. The intermediary does not consider these factors in claims review. Furthermore, the latter decision suggests that financial responsibility under Medicare has an endpoint after which further financial support is a community responsibility.

3. A decision by the utilization review committee that care is not covered might hasten the discharge of the patient and prevent incurrence

of sizable and often uncollectable bills. This function could be extremely valuable to the facility.

4. To refer each case of noncovered care to the utilization review committee would create an unacceptable and unnecessary burden to both the intermediary and the utilization review committee. However, periodic discussion of such cases is helpful in better understanding of covered and noncovered care under third-party paying programs.

5. If the medical staff and its utilization review committee were thoroughly familiar with covered and noncovered levels of care and if the committee functioned efficiently, instances of bypassing or overruling by the intermediary would be rare.

6. An additional essential function of the utilization review committee is educational.

7. Utilization review committee activity preceded by several years the passage of the Medicare law. Its primary function has always been to improve the efficiency of the hospital and to assure the most effective use of the vast community expenditure for the physical facilities as well as allied health professions manpower. Utilization review committees should function irrespective of legislation and should not consider their activities as solely a Medicare responsibility.

### Personnel Attitudes

*Legal liability.* Dove Nursing Home subscribes to Precision Health Data System. The data system's consultant met with the utilization review committee chairman to discuss committee members' fears of legal implications and involvement through committee activity. An interesting question arose. Could a patient's attorney subpoena Precision's tapes and prove his client's case had not met the extended care facility's standards and the patient's physician be charged with malpractice? A question was also raised concerning liability of physicians who serve on utilization review committees. What pertinent legal information can be given?

*Considerations.* The following are legal liability considerations.

1. A number of States have passed legislation which exempts utilization review committees from liability for committee recommendations resulting from use of confidential data. For example, the Illinois Medical Practice Act, III. Rev. Stat. 1967, ch. 91, sec. 1-39, section 2b states:

(Medical Utilization Committee—Exemption from civil liability.) While serving upon any Medical Utilization Committee any person licensed to practice medicine in all of its branches shall not be liable for civil damages as a result of his acts, omissions or decisions in connection with his duties on such Committee, except those involving willful or wanton misconduct. Added by act approved Aug. 11, 1967, L. 1967, p. —. S. B. No. 917.

2. None of the health data systems has ever had tapes subpoenaed to anyone's knowledge.

3. With respect to the legal liability of physicians serving on a hospital utilization review committee, it should be pointed out that a committee decision that further inpatient stay is no longer covered by Medicare only terminates payment by Medicare for that particular hospital stay. There is nothing in the law or regulations that requires the utilization review committee to discharge the patient. There is, however, opportunity for consulting the attending physician. The attending physician discharges the patient if that is his judgment.

4. In a report to the American Medical Association's Council on Medical Service, its chairman, Dr. Russell B. Roth, made the following statements (JAMA 197: 349, Aug. 1, 1966).

Physician concern for individual or committee legal liability has been widespread, on the assumption that a committee decision adverse to continuing hospitalization might be made, only to be followed by a deterioration in the condition of the patient or unexpected death. In the opinion of competent legal advisors, the legal liability of physicians under these circumstances should not be a deterrent to service since it is pointed out that the committee itself never mandates a discharge from the hospital. Only a matter of fiscal responsibility for the payment of bills has been adjudicated.

#### **Medicaid Utilization Review**

The format of the Medicaid section differs from the casebook examples previously presented. An

introduction lists required and optional care and services. Title XVIII and Title XIX coordination and the use of norms are discussed. Examples of Medicaid utilization review activities as conducted in three different States illustrate the use of norms to review and control inpatient hospital stays, nursing home care, and physician and prescription services.

#### **Conclusion**

Fifty-two problems representative of those encountered in the field and based on the responses to an inquiry for this type of information are included in a casebook dealing with utilization review problems. This casebook was designed to be a guide for field staff and administrative personnel in dealing with utilization review problems. It is not meant to be definitive nor exhaustive insofar as problems encountered. Those who use the casebook are asked to review the problems for similarities with those they encounter and make necessary adaptations where possible. A problem in the field often can be made the basis for staff discussion so that the combined thinking of a number of people dealing with utilization review might contribute to an overall workable course of action.

While we could not, in this short paper, describe in depth all the problems in the casebook, we hope that the two examples illustrate the manner in which they were treated. The problems presented are real and were received from many sources; they are representative of day-to-day situations encountered. We would be pleased to hear from persons who have encountered particularly interesting situations that would be useful in updating the casebook or perhaps for inclusion as training materials.